

AMENDED IN ASSEMBLY JANUARY 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 745**

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**Introduced by Assembly Member Levine**

February 21, 2013

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An act to amend Section ~~65583.2~~ 5549 of the ~~Government Code~~ *Public Resources Code*, relating to ~~land use~~ *parks*.

LEGISLATIVE COUNSEL'S DIGEST

AB 745, as amended, Levine. ~~Land use: housing element. Regional park and open-space districts: general manager: powers.~~

*Existing law authorizes the general managers of the East Bay Regional Park District, the Midpeninsula Regional Open Space District, and the Sonoma County Agricultural Preservation and Open Space District to bind those districts, with district board approval and in accordance with board policy, for the payment for supplies, materials, labor, or other valuable consideration for any purpose, in amounts not exceeding \$25,000.*

*This bill would also extend that authorization to the general manager of the Marin County Open Space District.*

~~The Planning and Zoning Law requires a city or county to adopt a comprehensive, long-term general plan that includes various mandatory elements, including a housing element that, in turn, is required to contain, among other things, an inventory of resources and constraints relevant to meeting the city's or county's housing needs. That law also requires a city's or county's inventory of land suitable for residential development to be used to identify sites that can be developed for housing that are sufficient to provide for the city's or county's share of the regional housing need, and for that purpose, requires a city or county~~

~~to determine (1) whether each site in the inventory can accommodate some portion of its share, as specified, and (2) the number of housing units that can be accommodated on each site, as specified. That law requires a city or county, for the number of units calculated to accommodate its share of the regional housing need for lower income households, to either provide a prescribed analysis demonstrating how the adopted densities accommodate this need, or deem certain densities appropriate to accommodate housing for lower income households, based on specified classifications.~~

~~This bill would authorize a city or county to request the appropriate council of governments to adjust a density to be deemed appropriate if it is inconsistent with the city's or county's existing density.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 5549 of the Public Resources Code is  
2     amended to read:  
3     5549. (a) The general manager has the following administrative  
4     and executive functions, powers, and duties. The general manager  
5     shall do all of the following:  
6         (1) Enforce this article and all ordinances and regulations of the  
7         district.  
8         (2) Appoint and remove subordinates, clerks, and other  
9         employees, and exercise supervision and control over all  
10        departments and offices of the district, subject to the personnel  
11        rules, ~~civil-service~~, *service* or merit system, and policies adopted  
12        by the board.  
13        (3) Attend all meetings of the board unless excused by the board.  
14        (4) Submit to the board for adoption any measures, ordinances,  
15        and regulations he or she deems necessary or expedient.  
16        (5) Enforce all terms and conditions imposed in favor of the  
17        district or its inhabitants in any contract and report any violations  
18        to the board or the police department, as appropriate.  
19        (6) Prepare and submit the annual budget to the board and  
20        perform all other duties imposed by this article or by the board.  
21        (b) (1) With the approval of the board, the general manager  
22        may bind the district, in accordance with board policy, and without  
23        advertising, for the payment for supplies, materials, labor, or other

1 valuable consideration for any ~~purpose~~ *purpose*, other than new  
2 construction of a building, structure, or ~~improvement~~ *improvement*,  
3 in amounts not exceeding ten thousand dollars (\$10,000), and for  
4 the payment for supplies, materials, or labor for new construction  
5 of a building, structure, or ~~improvement~~ *improvement*, in amounts  
6 not exceeding twenty-five thousand dollars (\$25,000). All  
7 expenditures shall be reported to the board of directors at its next  
8 regular meeting.

9 (2) Notwithstanding paragraph (1), with the approval of the  
10 board, the general manager of the East Bay Regional Park District,  
11 *the general manager of the Marin County Open Space District*,  
12 the general manager of the Midpeninsula Regional Open Space  
13 District, and the general manager of the Sonoma County  
14 Agricultural Preservation and Open Space District may bind those  
15 districts, in accordance with board policy, and without advertising,  
16 for the payment for supplies, materials, labor, or other valuable  
17 consideration for any purpose, including the new construction of  
18 any building, structure, or ~~improvement~~ *improvement*, in amounts  
19 not exceeding twenty-five thousand dollars (\$25,000). All  
20 expenditures shall be reported to the board of directors at its next  
21 regular meeting.

22 ~~SECTION 1. Section 65583.2 of the Government Code is~~  
23 ~~amended to read:~~

24 ~~65583.2. (a) A city's or county's inventory of land suitable~~  
25 ~~for residential development pursuant to paragraph (3) of~~  
26 ~~subdivision (a) of Section 65583 shall be used to identify sites that~~  
27 ~~can be developed for housing within the planning period and that~~  
28 ~~are sufficient to provide for the jurisdiction's share of the regional~~  
29 ~~housing need for all income levels determined pursuant to Section~~  
30 ~~65584. As used in this section, "land suitable for residential~~  
31 ~~development" includes all of the following:~~

- 32 ~~(1) Vacant sites zoned for residential use.~~  
33 ~~(2) Vacant sites zoned for nonresidential use that allows~~  
34 ~~residential development.~~  
35 ~~(3) Residentially zoned sites that are capable of being developed~~  
36 ~~at a higher density.~~  
37 ~~(4) Sites zoned for nonresidential use that can be redeveloped~~  
38 ~~for, and as necessary, rezoned for, residential use.~~  
39 ~~(b) The inventory of land shall include all of the following:~~

1     ~~(1) A listing of properties by parcel number or other unique~~  
2     ~~reference.~~

3     ~~(2) The size of each property listed pursuant to paragraph (1),~~  
4     ~~and the general plan designation and zoning of each property.~~

5     ~~(3) For nonvacant sites, a description of the existing use of each~~  
6     ~~property.~~

7     ~~(4) A general description of any environmental constraints to~~  
8     ~~the development of housing within the jurisdiction, the~~  
9     ~~documentation for which has been made available to the~~  
10    ~~jurisdiction. This information need not be identified on a~~  
11    ~~site-specific basis.~~

12    ~~(5) A general description of existing or planned water, sewer,~~  
13    ~~and other dry utilities supply, including the availability and access~~  
14    ~~to distribution facilities. This information need not be identified~~  
15    ~~on a site-specific basis.~~

16    ~~(6) Sites identified as available for housing for above~~  
17    ~~moderate-income households in areas not served by public sewer~~  
18    ~~systems. This information need not be identified on a site-specific~~  
19    ~~basis.~~

20    ~~(7) A map that shows the location of the sites included in the~~  
21    ~~inventory, such as the land use map from the jurisdiction's general~~  
22    ~~plan for reference purposes only.~~

23    ~~(e) Based on the information provided in subdivision (b), a city~~  
24    ~~or county shall determine whether each site in the inventory can~~  
25    ~~accommodate some portion of its share of the regional housing~~  
26    ~~need by income level during the planning period, as determined~~  
27    ~~pursuant to Section 65584. The analysis shall determine whether~~  
28    ~~the inventory can provide for a variety of types of housing,~~  
29    ~~including multifamily rental housing, factory-built housing,~~  
30    ~~mobilehomes, housing for agricultural employees, emergency~~  
31    ~~shelters, and transitional housing. The city or county shall~~  
32    ~~determine the number of housing units that can be accommodated~~  
33    ~~on each site as follows:~~

34    ~~(1) If local law or regulations require the development of a site~~  
35    ~~at a minimum density, the department shall accept the planning~~  
36    ~~agency's calculation of the total housing unit capacity on that site~~  
37    ~~based on the established minimum density. If the city or county~~  
38    ~~does not adopt a law or regulations requiring the development of~~  
39    ~~a site at a minimum density, then it shall demonstrate how the~~

1 number of units determined for that site pursuant to this subdivision  
2 will be accommodated.

3 ~~(2) The number of units calculated pursuant to paragraph (1)~~  
4 ~~shall be adjusted as necessary, based on the land use controls and~~  
5 ~~site improvements requirement identified in paragraph (5) of~~  
6 ~~subdivision (a) of Section 65583.~~

7 ~~(3) For the number of units calculated to accommodate its share~~  
8 ~~of the regional housing need for lower income households pursuant~~  
9 ~~to paragraph (2), a city or county shall do either of the following:~~

10 ~~(A) Provide an analysis demonstrating how the adopted densities~~  
11 ~~accommodate this need. The analysis shall include, but is not~~  
12 ~~limited to, factors such as market demand, financial feasibility, or~~  
13 ~~information based on development project experience within a~~  
14 ~~zone or zones that provide housing for lower income households.~~

15 ~~(B) The following densities shall be deemed appropriate to~~  
16 ~~accommodate housing for lower income households:~~

17 ~~(i) For incorporated cities within nonmetropolitan counties and~~  
18 ~~for nonmetropolitan counties that have micropolitan areas: sites~~  
19 ~~allowing at least 15 units per acre.~~

20 ~~(ii) For unincorporated areas in all nonmetropolitan counties~~  
21 ~~not included in clause (i): sites allowing at least 10 units per acre.~~

22 ~~(iii) For suburban jurisdictions: sites allowing at least 20 units~~  
23 ~~per acre.~~

24 ~~(iv) For jurisdictions in metropolitan counties: sites allowing~~  
25 ~~at least 30 units per acre.~~

26 ~~(4) A city or county may request the appropriate council of~~  
27 ~~governments to adjust a density specified in subparagraph (B) of~~  
28 ~~paragraph (3) if the density specified is inconsistent with the city's~~  
29 ~~or county's existing density.~~

30 ~~(d) For purposes of this section, metropolitan counties,~~  
31 ~~nonmetropolitan counties, and nonmetropolitan counties with~~  
32 ~~micropolitan areas are as determined by the United States Census~~  
33 ~~Bureau. Nonmetropolitan counties with micropolitan areas include~~  
34 ~~the following counties: Del Norte, Humboldt, Lake, Mendocino,~~  
35 ~~Nevada, Tehama, and Tuolumne and such other counties as may~~  
36 ~~be determined by the United States Census Bureau to be~~  
37 ~~nonmetropolitan counties with micropolitan areas in the future.~~

38 ~~(e) A jurisdiction is considered suburban if the jurisdiction does~~  
39 ~~not meet the requirements of clauses (i) and (ii) of subparagraph~~  
40 ~~(B) of paragraph (3) of subdivision (c) and is located in a~~

1 Metropolitan Statistical Area (MSA) of less than 2,000,000 in  
2 population, unless that jurisdiction's population is greater than  
3 100,000, in which case it is considered metropolitan. Counties,  
4 not including the City and County of San Francisco, will be  
5 considered suburban unless they are in a MSA of 2,000,000 or  
6 greater in population in which case they are considered  
7 metropolitan.

8 (f) A jurisdiction is considered metropolitan if the jurisdiction  
9 does not meet the requirements for "suburban area" above and is  
10 located in a MSA of 2,000,000 or greater in population, unless  
11 that jurisdiction's population is less than 25,000 in which case it  
12 is considered suburban.

13 (g) For sites described in paragraph (3) of subdivision (b), the  
14 city or county shall specify the additional development potential  
15 for each site within the planning period and shall provide an  
16 explanation of the methodology used to determine the development  
17 potential. The methodology shall consider factors including the  
18 extent to which existing uses may constitute an impediment to  
19 additional residential development, development trends, market  
20 conditions, and regulatory or other incentives or standards to  
21 encourage additional residential development on these sites.

22 (h) The program required by subparagraph (A) of paragraph (1)  
23 of subdivision (c) of Section 65583 shall accommodate 100 percent  
24 of the need for housing for very low and low-income households  
25 allocated pursuant to Section 65584 for which site capacity has  
26 not been identified in the inventory of sites pursuant to paragraph  
27 (3) of subdivision (a) on sites that shall be zoned to permit  
28 owner-occupied and rental multifamily residential use by right  
29 during the planning period. These sites shall be zoned with  
30 minimum density and development standards that permit at least  
31 16 units per site at a density of at least 16 units per acre in  
32 jurisdictions described in clause (i) of subparagraph (B) of  
33 paragraph (3) of subdivision (c) and at least 20 units per acre in  
34 jurisdictions described in clauses (iii) and (iv) of subparagraph (B)  
35 of paragraph (3) of subdivision (c). At least 50 percent of the very  
36 low and low-income housing need shall be accommodated on sites  
37 designated for residential use and for which nonresidential uses  
38 or mixed-uses are not permitted.

39 (i) For purposes of this section and Section 65583, the phrase  
40 "use by right" shall mean that the local government's review of

1 the owner-occupied or multifamily residential use may not require  
2 a conditional use permit, planned unit development permit, or other  
3 discretionary local government review or approval that would  
4 constitute a “project” for purposes of Division 13 (commencing  
5 with Section 21000) of the Public Resources Code. Any subdivision  
6 of the sites shall be subject to all laws, including, but not limited  
7 to, the local government ordinance implementing the Subdivision  
8 Map Act. A local ordinance may provide that “use by right” does  
9 not exempt the use from design review. However, that design  
10 review shall not constitute a “project” for purposes of Division 13  
11 (commencing with Section 21000) of the Public Resources Code.  
12 Use by right for all rental multifamily residential housing shall be  
13 provided in accordance with subdivision (f) of Section 65589.5.